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ABSTRACT

With the state facing lawsuits over school funding, the Joint Interim Subcommittee on School Funding of the Montana Legislature recommended establishing guaranteed tax base aid to schools. The subcommittee made the recommendations in November 1992 to the 53rd Legislature. The legislation, LC 36, would equalize funding for school district facility needs by providing guaranteed tax base aid to school districts if their district mill value per annual number belonging (ANB) is less than the corresponding statewide mill value ANB. School districts that qualify for guaranteed tax base aid would be allowed to incur indebtedness up to 45 percent of the statewide taxable value per pupil multiplied by the district's ANB. A second recommendation was made to adopt LC 180, which would clarify reimbursement rates in school district transportation laws. The subcommittee's discussion of administrative costs at public schools is also included. Also presented are findings on extending the school year and equitable distribution of the foundation program schedules. Legislative actions in the July 1992 special session and a proposal by the National Business Roundtable are also presented. Three appendices include texts of proposed legislation, charts showing school district expenditures by function and student for FY 1991, and a table showing legislative increases in foundation program schedules, FY 1951 through 1991. (JPT)

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LEGISLATIVE RESPONSES TO REMAINING SCHOOL FUNDING EQUITY ISSUES

November 1992

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LEGISLATIVE RESPONSES TO REMAINING SCHOOL FUNDING EQUITY ISSUES

A Report to the 53rd Legislature
from the
JOINT INTERIM SUBCOMMITTEE
ON SCHOOL FUNDING

Prepared by
Andrea Merrill, Staff Researcher

November 1992

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SUMMARY OF RECOMMENDATIONS

The Joint Interim Subcommittee on School Funding recommends that the 53rd Legislature:

- adopt LC 36, an act equalizing funding for school district facility needs by providing guaranteed tax base aid for the debt service fund of a school district if the district mill value per ANB is less than the corresponding statewide mill value per ANB; and allowing a district that qualifies for guaranteed tax base aid to incur indebtedness up to 45 percent of the statewide taxable value per pupil multiplied by the district's ANB.

- adopt LC 180, an act clarifying reimbursement rates in school district transportation laws; and eliminating a reference to the county transportation fund operating reserve.

INTRODUCTION

Senate Joint Resolution No. 27 (SJR 27) of the 1991 Regular Session was inspired by the combination of unfinished work on equalizing school transportation and school facility costs and rumors that another "underfunded schools" lawsuit would be filed, one that would cast judgment on the school funding reforms made since enactment of House Bill No. 28 (HB 28) of the June 1989 Special Session.[1]

HB 28 had commanded a Legislative Oversight Committee on School Funding Implementation (Oversight Committee) to use the remaining 1989-90 interim to monitor the implementation and consequences of the extensive revision of the state's school funding and school revenue structure and to investigate equalization of school transportation and school facilities costs. Within the limits of the shortened 1989-90 interim, the Oversight Committee and its multiagency staff attempted to address the wide variety of requested issues and recommended legislation related to the implementation of HB 28 and to equalization of school transportation.* The Oversight Committee also initiated a study of school facility costs by surveying the state's school districts to determine the condition of existing school buildings and anticipated facility needs and, later in the interim, explored various mechanisms for the equalization of school building and debt service costs. The Oversight Committee's 1989-90 interim work is documented in a final report to the 52nd Legislature.[2]

In the interest of fulfilling an achievable interim agenda, SJR 27 limited the scope of this interim study to the following areas:

- continued inquiry into equalizing school transportation and school facility costs;

- the effectiveness of guaranteed tax base (GTB) aid as a means of

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* See page 10 for discussion of Senate Bill No. 82 (Chapter 711, Laws of 1991).

equalizing various areas of school funding;

- further investigation into tuition issues and the costs of out-of-district placement of students; and

- examination of the equitable distribution of equalization aid through the foundation program schedules.

The following events of the 1991-92 interim were to conspire against attainment of all but the first study goal:

- The prescribed work of the Joint Interim Subcommittee on School Funding (Subcommittee), mandated by SJR 27, became more compelling when the threatened second round of the "underfunded schools" lawsuit was filed in the First Judicial District Court of Judge Jeffrey Sherlock on August 15, 1991, on behalf of approximately 65 school districts.[3] The complaint alleges that while HB 28 may be an improvement over the former school funding system, the new mechanism may continue to violate the equal protection clause and the equality of educational opportunity clause of the Montana Constitution in that substantial spending and mill levy disparities still exist. The complaint also cited the Legislature's failure to equalize school capital outlay and transportation costs.

- In December 1991, 160 school districts in the Montana Rural Education Association also started litigation claiming that the distribution of state aid through the foundation program schedules and the new GTB program discriminated against small districts.[4]

- The Subcommittee accepted responsibility for shepherding through the January 1992 Special Session an appropriate legislative response to questions about the validity of school bonds sold after July 1, 1991, the effective date for the Montana Supreme Court's

declaration of the unconstitutionality of the school funding "system". (See page 5.)

- In the 1991 postsession legislative poll on preferred interim studies, House Joint Resolution No. 49 (HJR 49), a study of the feasibility of an extended school year, did not garner enough support to justify a separate study committee; however, the Montana Legislative Council did request that the Joint Interim Subcommittee on School Funding address the commands of that study resolution.

- A provision in House Bill No. 2 of the January 1992 Special Session reappropriated certain unobligated portions of funding in that bill to the Montana Legislative Council for any interim study considered important by legislative leadership.[5] The leadership subsequently requested that the Subcommittee study the administrative costs of school districts.

- Diminishing state revenue and increased obligations to K-12 public schools in Montana were the core of the overall state budget woes that prompted the Legislature to meet in special session in both January and July 1992.

- At the Subcommittee's April 27, 1992, meeting, Co-chairman Blaylock asked the Subcommittee to devote time on a future agenda to hear any education reform package promoted for Montana by the National Business Roundtable, an organization that had sponsored an analysis of the measures needed for Montana schools and policies to track President Bush's America 2000 plan.

EQUALIZATION OF SCHOOL FACILITY FUNDING

The Fate of School District Bonds

Following the June 1989 Special Session, the Montana Supreme Court clarified its opinion on the constitutionality of the state's school funding scheme by delaying the effective of the decision to July 1, 1991, thus giving the 1991 Legislature an opportunity to finish the business of equalizing school costs.[6] The delayed date also protected the validity of any school bond sold prior to that time.

The 1991 Legislature was unsuccessful in attempts to equalize the cost of school facilities, and the fate of school bond sales after July 1, 1991, became murky at best.* When it became known that Montana's bond counsel would not be able to issue an "unqualified opinion" on the validity of any school bond issued after July 1, 1991, the State Attorney General, the Superintendent of Public Instruction, and the Board of Public Education asked the Montana Supreme Court to modify the July 1, 1991, effective date to protect essential sales of school bonds. The Plentywood school system was especially concerned that it might not be able to replace a building that had been destroyed by fire in December 1990. On October 7, 1991, the Supreme Court denied the state's petition, saying that any modification of the effective date might open the floodgates to other aspects of the case and that correction in this matter should be directed to the Executive and Legislative Branches, not the Court.

At the request of Governor Stephens, the Montana Board of Investments (Board) contemplated seeking up to $20 million in tax anticipation note financing to lend to districts for essential building projects. The districts would then have to rely on the 1993 Legislature to pass some

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* The 1991 Legislature rejected House Bill No. 67, the Oversight Committee's proposal to appropriate $5 million to the Board of Public Education for capital outlay grants to school districts most in need of funding to meet school accreditation standards.

constitutionally acceptable legislation to enable districts to issue bonds on their own merit and to repay the Board. One downside of this solution would have been higher interest rates than districts might have been available to obtain if the constitutional issue were resolved. The Board also considered purchasing some district bonds if bond counsel could see the way clear to issue a "qualified" or "reasoned" opinion to allay risk factors.

At its December 9, 1991, meeting, the Subcommittee held a "roundtable" discussion with school and state officials to air possible solutions. In the hope that the issue could be resolved in the threatened January 1992 Special Session, the Subcommittee sponsored draft legislation that would guarantee state payment to holders of a school bond if a court order should render such a bond invalid or unenforceable.

A plea to Governor Stephens to add the Subcommittee's legislative solution to the January 1992 Special Session call was unsuccessful, but the Subcommittee sponsored a special forum on January 7, 1992, and drummed up the necessary signatures to introduce Senate Bill No. 5.[7] The proposal was widely supported and, in its final form, offered $25 million in state guarantees (with coal tax trust fund money as backing) for schools in dire need of bonding authority. To qualify for the state guarantee, 75% of the cost of a district project had to be related to health and safety improvements, compliance with accreditation standards, or replacement of a destroyed or damaged building. As of September 1992, the Board of Public Education had approved applications of 15 school districts for nearly all of the $25 million of the state guarantee.

Funding for School Facilities in Montana

Traditionally and currently, expenditures in Montana for public school facility construction, repair, and maintenance equal approximately 5% of the total for all school district budgets each year. Districts do not receive state assistance specifically earmarked for facility maintenance, construction,

repair, or debt service obligations. However, districts are permitted to fund construction, repair, and maintenance projects within the district general fund budget if sufficient revenue is available from state and local funding sources, such as the foundation program and state equalization aid mechanism, the permissive funding area, and voted levies. The state foundation program schedule allocations were originally designed to cover the average facility needs of the various-sized districts, but funding for the schedules has never been adequate to accomplish that intended goal. Some districts may be accessing state money for assorted facility projects through receipt of GTB aid for the permissive funding area of the district general fund budget.

Separate from the district general fund, districts may, with the approval of district voters, raise tax money for future site acquisition and the construction, equipping, or enlarging of school facilities through the provisions governing the district building reserve fund. Some districts may also receive federal Public Law 81-815 funds to compensate for the impact of federal activities connected with school membership. Other districts have been fortunate to receive donations of land or cash for facility needs.

As part of the 1989-90 interim's school funding study, the staff of the Office of the Legislative Fiscal Analyst surveyed the state's school districts in December 1989 to determine the age and condition of existing school buildings, the extent of outstanding construction bonds, each district's anticipated facility requirements for the next 5 years, the size and success rate of recent bond elections, and other pertinent information.[8] The results indicated that 68% of the anticipated capital projects were in districts that were below the state average in taxable wealth per average number belonging (ANB). Of the districts reporting poor or inadequate buildings, 78% were in this below-average wealth group. Four out of every 10 districts contemplated constructing a new facility or extensively remodeling existing facilities by the 1996 school year. For the 443 districts reporting, the potential price tag approached $177 million for projects ranging in cost from

$10,000 to $10 million. When the "wish list" was extrapolated to include the districts that did not report, the amount rose to $190 million for the period. This prediction represents nearly one-half of the number of buildings that were constructed in the past two decades and can be compared to the $184 million spent on buildings during the 1980s. The survey also showed that for fiscal year (FY) 1989, districts had $160 million in outstanding bonded indebtedness.* The debt service payments of the state's districts totaled $26.5 million in FY 1991 and $28.1 million in FY 1992.

Subcommittee Deliberations

At its third meeting, held on March 20, 1992, the Subcommittee used an issues and options paper and a review of past reports to organize discussion on various proposals for a permanent equalization mechanism for school capital costs.[9] Subcommittee discussion centered on two options for further exploration: (1) a flat grant per ANB to each district for a "capital outlay fund", which could then be used at district discretion to pay off existing debt, accumulate in the building reserve fund, or be spent in the building fund for current projects; and (2) expanding the application of GTB aid to the mill levies required to fund a district's existing or new debt service, or both. At the June 13, 1992, meeting, the Subcommittee settled on the latter option as a recommendation for draft legislation.

Using assumptions from a December 4, 1991, report by the staff of the Office of Public Instruction (OPI), the projected cost to the state if GTB aid were applied to FY 1992 debt service budgets would have been $5.9 million, with $19.6 million coming from mill levies in qualifying districts.[10] Some legislators were concerned that the availability of GTB aid would trigger a building boom in the districts and that the cost to the state would soar. In theory, the requirement of voter approval for the local share of

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* The term "fiscal year" (FY) with a given date (i.e., 1990) refers to a school financial year that would begin July 1 of the previous year (1989) and end on June 30 of the year given (1990). State government budgets are based on the same fiscal year schedule.

taxation would act as a restraint on the extravagant use of state aid.

The Subcommittee also addressed concerns over the inequities that may be inherent in limiting a school district's bonding to 45% of the taxable valuation of the district. As part of the 1989 school funding reform package (HB 28), nearly $400 million in natural resource taxation was removed from the property tax base and replaced with the "flat tax" collection system. While a district was allowed to calculate the value of natural resource taxation within the jurisdiction when establishing its bonding limit, there was no longer a way to collect revenue from that source. Thus, a district with a property tax base diminished in this manner might "look good on paper" but might have a hard time convincing local voters to approve new debt, even if state assistance in the form of GTB aid was available.*

At the Subcommittee's final meeting, held on September 13, 1992, the members recommended the following to the 53rd Legislature. (See Appendix A for draft legislation.)

> **Adopt LC 36, an act equalizing school district facility needs by providing guaranteed tax base aid for the debt service fund of a school district if the district mill value per ANB is less than the corresponding statewide mill value per ANB; and allowing a district that qualifies for guaranteed tax base aid to incur indebtedness up to 45 percent of the statewide taxable value per pupil multiplied by the district's ANB.**

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* The bonding limit for school districts has been adjusted upwards whenever major changes have taken place in the value or availability of certain property within the local tax base. Until 1975, the longstanding bond limit of 5% was edged up to 8% to account for the possible addition of major resource extraction industries to the local tax base. When a new market value for property was established as the basis of taxation in 1977, the bond limit was adjusted to 29%. The current 45% limit was enacted in 1981 when the method of taxing automobiles and trucks of a certain rated capacity was converted to a fee system.

EQUALIZATION OF SCHOOL TRANSPORTATION COSTS

Like school district facility costs, equalization of school district transportation costs was never discussed in any detail within the "underfunded schools" lawsuit.[11] Because the District Court decision and subsequent affirmation by the Montana Supreme Court stressed that the school funding "system" was unconstitutional, policymakers have been encouraged to consider some level of transportation to and from school as an integral part of the free public education system that should be equitably financed. Yet, as the 1989 Legislature and the education community journeyed toward equalizing school district general fund budgets, transportation issues were avoided as territory that was too unmapped to trek through during the regular and special sessions of that year. A number of funding reform proposals did promote either full state funding of established reimbursement schedules or payment based on a district population density factor.[12]

The Oversight Committee of the 1989-90 interim studied the funding mechanisms and the costs of school transportation, methods by which other states fund transportation, and the problems encountered by OPI in compiling consistent, meaningful data on school district transportation budgets at that time.[13] In 1991, the Oversight Committee did sponsor Senate Bill No. 82 (SB 82) as "a first step toward providing a long-term solution to school transportation equalization problems in Montana".[14] In SB 82, the revenue sources and funding mechanism for elementary districts and high school districts were standardized so that the reimbursable on-schedule costs are shared equally by the county and the state. Two other SB 82 amendments increased the mileage reimbursement for on-schedule transportation costs from 80 cents to 85 cents a mile and provided for state assumption of all transportation costs for special education students. The newly instituted use of generally accepted accounting principles (required in HB 28) promised to provide dependable and extensive transportation budget and expenditure reporting.

In separate action, the 1991 Legislature supported the recommendation by the Oversight Committee to limit transportation funding to 180 days to match the similar 180-pupil-instruction-day limitation on state equalization aid contained in the 1989 reform package.[15]

How School Transportation Is Funded

Prior to changes made by the 1991 Legislature in SB 82, the financial obligations of the state, county, and district for the transportation on-schedule amount for each elementary and high school district were divided as shown in Figure 1. A complete description of the history of Montana's school transportation policies, funding mechanisms, and governance structures is available in a staff report presented at the September 1992 meeting.[16]

Figure 1

Public School Transportation - Cost Allocation
Fiscal Year 1988-89

	Elementary District	High School District	
Total Transportation Budget			
Over-Schedule	District	District	$10.8 million
On-Schedule	1/3 District	2/3 County	$17.7 million
	1/3 County		
	1/3 State	1/3 State	

State paid 2/3 of on-schedule special education costs.

Under the current distribution shown in Figure 2, both elementary and high school districts receive transportation reimbursement from the state for one-half of the district's total on-schedule amount. Transportation reimbursement

from the county is designated to provide the remaining one-half of the funds for elementary districts, high school districts, and special education cooperatives in the county. The county transportation reimbursement is funded by a nonvoted county transportation fund levy. (See section 20-10-146(2), MCA.) Over-schedule costs for a district may result from transporting noneligible transportees to and from school or from expenditures for transporting eligible transportees that exceed what is granted through the transportion reimbursement rates. Each district or cooperative is responsible for funding any over-schedule costs within the transportation fund budget through a nonvoted levy on the taxable property of that school district or cooperative. Transportation expenditures for sports and other extracurricular activities do not meet the definition of transportation contained in 20-10-101, MCA, and are to be funded through the district general fund budget.

Figure 2

Public School Transportation - Cost Allocation
Fiscal Year 1991-92

Total Transportation Budget	Elementary District	High School District	
Over-Schedule	District	District	
On-Schedule	County	County	$18 million
	State	State	

In the July 1992 Special Session, House Bill No. 22 reduced the state's FY 1992-93 obligation for full reimbursement of the transportation costs of special education students to a 50% reimbursement rate.[17] With this

action, the Legislature decreased state special education transportation costs to $800,000 but increased county transportation support by a like amount.

Subcommittee Deliberations

At the Subcommittee's final meeting, held on September 18, 1992, OPI staff discussed the long- and short-term reforms developed by the OPI Transportation Funding Advisory Committee (Advisory Committee). The Advisory Committee identified the following issues to be considered when designing an equalized school transportation plan:

- Should school transportation be defined to include transportation between school facilities, transportation for educational field trips, or transportation to afterschool day-care facilities?

- Is the 3-mile limit a valid parameter for state and district obligations, or should local social, economic, and safety conditions allow for more flexibility?

- Should the current reimbursement model be changed to consider such factors as average cost per mile or actual district costs?

- Would greater efficiencies and equalization be realized if the Legislature established a county transportation structure, an option that might reduce the number of routes and lead to sharing of resources on a countywide basis?

- Should the state assume additional responsibility for the costs of transporting children with disabilities?

OPI staff shared the preliminary results of the study of the actual cost per mile of operating a bus in FY 1991. The total statewide transportation operating costs for FY 1991 were $29.4 million, excluding individual

transportation contracts with parents. Divided into the 17.1 million route miles traveled each year, the statewide rate per mile is $1.71. Currently, on-schedule reimbursement is based on 85 cents a mile for a 45-passenger bus. Another 2.3 cents a mile is added for each additional seat in the rated capacity. OPI staff suggested that the state could continue to fund approximately $11.5 million, or 39% of the new obligation, with the remainder equalized across the districts of a county in a manner similar to the county retirement levy.

The Subcommittee did not act on the aforementioned long-term issues but recommended to the 53rd Legislature the following OPI suggestion to clarify several technical errors in school transportation law. (See Appendix A for draft legislation.)

Adopt LC 180, an act clarifying reimbursement rates in school district transportation laws; and eliminating a reference to the county transportation fund operating reserve.

DISCUSSION OF ADMINISTRATIVE COSTS

A provision in House Bill No. 2 of the January 1992 Special Session reappropriated certain unobligated portions of appropriations in the bill to the Montana Legislative Council for any interim study considered important by legislative leadership. The leadership subsequently requested that the Subcommittee study the administrative costs of school districts. Interest in this aspect of school funding had been sparked by a series of newspaper articles in early 1992 that exposed the salaries of various school administrators.[18]

At the Subcommittee's March 29, 1992, meeting, OPI staff presented a report comparing overall school district expenditures from FY 1988 through FY 1991. (See Appendix B.) At the April 27, 1992, meeting, OPI staff presented an analysis of school district expenditures by function for FY 1991.[19] (See Appendix B.) The $712 million in expenditures, excluding another $58 million in school facility debt service and bus purchase costs, represents an average cost of $4,664 per student, with $2,691 per student dedicated for instructional costs. Eleven percent of the total can be attributed to administrative costs, which include school board activities and fiscal services in addition to supervisory duties required by accreditation standards. Harry Erickson, representing the Montana Association of School Administrators, detailed the administrative duties and costs common to a Class A combined high school and elementary district. He made available a national report on "myths" about school administrative costs.[20]

Representative Scott McCulloch shared a Montana Legislative Council legal memorandum on alleged constitutional problems with his 1991 legislation that tied top salaries for administrative personnel to the top salaries for district teachers.[21] The memorandum's author opined that the bill would not have interfered with the constitutional duties of school districts.[22]

HJR 49, STUDY OF THE FEASIBILITY OF EXTENDING THE SCHOOL YEAR

House Joint Resolution No. 49 (HJR 49) asked that a legislative study committee consider the feasibility of extending the required school year for elementary and high school students in Montana. The resolution reiterated a popular speculation in the past decade that by increasing the educational hours required of America's K-12 students, the nation and its future workers can regain the nation's competitive edge in global economic endeavors. The following report section paraphrases portions of a staff report presented at the Subcommittee's September 18, 1992, meeting.[23]

House Bill No. 694 (HB 694), tabled in the 1991 Regular Session, would have extended the required pupil-instruction days from 180 to 220 by adding 10 days in each of the next 4 school fiscal years, beginning with the 1992-93 school fiscal year. Increasing the mandatory school year by only 20 days would increase a child's required schooling by 11%, or 260 days, from kindergarten through high school graduation, the equivalent of more than another year of potential learning time. The preamble to HJR 49 suggested that the cost of extending the required public school year from 180 days to as many as 220 days may present a "fiscal challenge" but that the "benefits of improved educational results, maximized use of school facilities, and enhanced economic competitiveness may outweigh any increased costs to the state and to local school districts".

Figure 3 REQUIRED SCHOOL DAYS AROUND THE WORLD			
Japan	232	Finland	190
Germany	226-240	New Zealand	190
South Korea	220	Nigeria	190
Israel	216	British Columbia	185
Luxembourg	216	France	185
CIS--Former Soviet Union	211	Ontario	185
Netherlands	200	Ireland	184
Scotland	200	Quebec	180
Thailand	200	Spain	180
Hong Kong	195	Sweden	180
England/Wales	192	United States	180
Hungary	191	French Belgium	175
Swaziland	191	Flemish Belgium	160

The debate on the length of the American public school year and its effects on our nation's competitive edge has been seething for the past decade. To some, there is little mystery about what might have gone so wrong with public schooling to cause American students to fall behind those of most advanced Western European and Asian countries in numerous standardized assessments. Further, there are strongly held opinions about what should be done to fix the situation. Educational research abounds with evidence of one strong consistency in how students learn, and that is a pupil's "time on task", which is defined as how much time the student spends in actively attending to the learning task at hand. Many voices inside and outside the education and political communities hold the opinion that no reform other than increasing potential learning time will result in an absolute increase in active learning and in successful and varied application of that learning.

Other voices in the education field maintain that the longer school year is not

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an isolated solution to improved achievements for U.S. students and that any selected school term must be accompanied by changes in the current educational structures and programs to make schooling more effective. This viewpoint stresses that there are numerous other educational productivity factors, including ability, motivation, home life, general peer culture, and "time on television", not to mention the whole spectrum of optimum learning variables like the quality of teaching methods.

The 180-day school year in Montana is often defended by pointing out that this state's students have, over time, excelled on a variety of national tests. In recent results from the National Assessment of Educational Progress, Montana's 8th graders were the second highest overall and the highest on the geometry and algebra subtests.[24] On a recent All-USA College Academic Team, three of the nation's top students held Montana high school diplomas. Montana is often in the top four states for ACT test results. Perhaps the best evidence of the quality of schooling in Montana is the fact that in over 40 years of assessing all young people who enter the nation's armed forces, Montana inductees have consistently scored the highest on the Armed Forces Qualification Test, a general aptitude and achievement test.[25] Montana also has the highest percentage of employment age people with baccalaureate degrees of any state in the nation.

Montana's foundation program act of 1949 included the requirement for a minimum 180-day school year.[26] From then until the 1991 school fiscal year, the determination of ANB for state equalization aid purposes was calculated by adding the aggregate days of attendance and absence of the students enrolled in a school or district (including up to 7 pupil-instruction-related days) and dividing the total by 180. There was no cap on the number of days in the school year, so districts could divide 180 into a larger number and obtain an ANB count that exceeded the enrollment count. Many districts had school calendars that consisted of 185 pupil-instruction days and all 7 pupil-instruction-related days and, therefore, could translate each enrolled

student into 1.06 ANB. During the school funding reform discussions of 1988 and 1989, this local district flexibility was criticized as contributing to inequitable funding among the districts. House Bill No. 28, passed during the 1989 Special Session, amended section 20-9-311, MCA, to limit state funding days to 180 pupil-instruction days and 7 pupil-instruction-related days.[27] Thus, while many states debated increasing the required number of school days, Montana's school reform legislation had the effect of reducing the school calendar for nearly every district in the state.

While some would blame parents, educators, and American culture in general for the marginal show of interest in extending the K-12 school year, there is no denying that the cost factor is a major obstacle. The estimate for adding school days for the nation's 40 million school-age kids is $1 billion per day. Those costs could be overstated, however, as some would argue that the costs could be as low as $200 a year per pupil because fewer would need to repeat grades and the ramifications of juvenile delinquency and other social problems might be mitigated by more emphasis on educational pursuits.

When the school year is protracted, the cost of teacher salaries and retirement, special education, buses, and utilities could rise, but the cost of books, maintenance, administration, employee benefits, and insurance for buildings and workers would most likely remain static. Since certain necessary costs should be unaffected by the length of the school year or day, the per-day costs of each extra day would be less than current per-day expenditures. According to the fiscal note for HB 694, extending the school year by 10 days would have cost $13 million for the additional days or 5.5% more in the state funding obligation each year. A Maryland study revealed that each additional school day would cost 70% of the current per diem rate and that 20 more days would increase the annual cost by 7.7%.[28] The following calculation extrapolates that concept for Montana.

The total state and local district spending in FY 1991-92 for district general

funds, state transportation reimbursements, and state special education obligations was $712 million, with a 61% state share.

$712 million ÷ 152,705 enrolled students = $4,664 per student per year
$4,664 ÷ 180 days = $26 per student per day
70% of $26 = $18.20 per student for each extended day or:

- **$182 per student per year for district general funds, special education, and state transportation obligations for 10 days additional**

- **$27.79 million total per year, with $16.95 in state obligations and the rest in local district obligations for 10 days additional**

Representative Howard Toole asked the Subcommittee to support continued debate on the issue of extending the school year and to encourage the 53rd Legislature, OPI, and interested educators to explore ways for local school districts to experiment with lengthening the school year. The Subcommittee made no recommendations with regard to this issue.

EQUITABLE DISTRIBUTION OF THE FOUNDATION PROGRAM SCHEDULES

The Subcommittee's work in this area was limited to discussion of the history of the foundation program schedules within a larger staff report on the legislative and financial history of school funding in Montana.[29] (See Appendix C.) At the Subcommittee's June 13, 1992, meeting, the staff of the Office of the Legislative Auditor shared an analysis on the relationship between foundation program schedules and actual district spending by category of school size and also offered to update the material.

It is likely that the aforementioned school funding lawsuits, scheduled to be heard in early 1993, will concentrate on expenditure disparities.[30] The complaint filed in the "rural schools" lawsuit claims that the eligibility formula for GTB aid, based on ANB, is biased against smaller, rural school districts and in favor of larger, nonrural districts because the formula does not recognize the higher costs of small schools as does the foundation program guarantee.[31]

LEGISLATIVE ACTIONS IN JULY 1992 SPECIAL SESSION

At the December 9, 1991, meeting, the Subcommittee discussed the grim news from the Office of the Legislative Fiscal Analyst concerning alarming cashflow projections for the state general fund, the school equalization aid (SEA) account, and the highway account.[32] Due to a number of unfortunate circumstances--a higher state tab for the school funding reforms that were effective in FY 1991, school enrollment growth, and lagging revenue collections from most SEA sources--the FY 1991 SEA revenue was $30 million less than anticipated, with the prospect of additional shortfalls of $21 million in both FY 1992 and FY 1993. The cashflow problem and structural imbalance in the major state funds were side-stepped in the January 1992 Special Session, but by May 1992, the issues couldn't be ignored. The July 1992 Special Session was called to bail the state out of a $90 million to $110 million deficit for the biennium. Rather than cut $14 million from the foundation program by revoking the scheduled 4% increase for FY 1993, the Legislature combined the following steps in the final version of House Bill No. 62.[33]

- reduction of all districts' general fund operating reserves to 10%, thus requiring districts with higher reserves to fold the excess into the general fund operating budget and saving the state an estimated $3 million to $4 million in state GTB payments. This spending down of district reserves was predicted to save taxpayers $14 million in the 104 affected districts.

- requirement that counties remit monthly all taxes collected in the 55-mill equalization levies, to be held by the state and sent back out to districts as "cash advances". The state anticipates receiving $1.7 million in interest.

- cancellation of the 20% foundation program payment normally due in July 1992 and implementation of the first new 8% monthly payment

in August 1992;

- reduction of the FY 1993 deficit by $38 million by delaying the final foundation program payment for FY 1993 until July 15, 1993 (beginning of FY 1994); and

- distribution of GTB aid in only two installments, in November and in May.

PROGRESS OF THE BUSINESS ROUNDTABLE

At the Subcommittee's April 27, 1992, meeting, Co-chairman Blaylock asked the Subcommittee to devote time on a future agenda to hear the education reform package promoted for Montana by the National Business Roundtable, an organization that had sponsored an analysis of the measures needed for Montana schools and policies to track President Bush's America 2000 plan.[34] At the Subcommittee's final meeting, held on September 18, 1992, Randall Romney and Christine Mangiantini reported that a group called Restructuring Education for Economic Development (REED) has formed out of interest in following up on the Business Roundtable report. REED hopes to build consensus on a school reform package for Montana to match national education goals.

SUMMARY OF SUBCOMMITTEE STUDY

As the introduction to this report notes, circumstances emerged during the interim to divert the Subcommittee from all but the main study commands in SJR 27--the exploration and promotion of equitable methods for funding school transportation and school facility costs. Sparked by the reality of the second round of school funding lawsuits and the questionable status of school bonding, the Subcommittee expressed a strong commitment to producing acceptable legislative recommendations in those areas. To this end, the Subcommittee welcomed and appreciated the participation of numerous education interest groups in studying and designing a plan for equalizing school facility costs that would be acceptable to the education community, politically achievable within the Legislative and Executive Branches, and admissible in meeting the constitutional mandate for an equitably funded system of public K-12 education.

The Subcommittee encouraged education spokespersons and policymakers to help investigate the issues surrounding equitable funding for school transportation costs. As noted in the report section on this topic, an OPI task force is in place and promises to work diligently to provide a comprehensive analysis of transportation costs and policies upon which a sound legislative solution can be based.

While it is regrettable that time and resources did not permit substantial work on the many other study commands and those education issues that emerged during the interim, the Subcommittee will encourage persistent legislative interest in those areas as educational policymaking continues to be a most critical and ever-present legislative concern.

epg 2324amxa.

ENDNOTES

1. Chapter 11, Special Laws of 1989.

2. "Moving Toward School Funding Equity: Implementation of HB 28," a report to the 52nd Legislature by the Legislative Oversight Committee on School Funding Implementation, Montana Legislative Council, December 1990.

3. Complaint, Helena Elementary School District No. 1 v. State, August 15, 1991.

4. Complaint, Montana Rural Education Association v. State, December 10, 1991.

5. Chapter 13, Special Laws of January 1992.

6. Supplemental order of January 4, 1990, Helena Elementary School District No. 1 v. State, 236 Mont. 44, 769 P.2d 684 (1989).

7. Chapter 12, Special Laws of January 1992.

8. "School Facility Survey," memo from Curtis Nichols to the Legislative Oversight Committee on School Funding Implementation, April 3, 1990.

9. "Equalization of School Facility and Debt Service Funding: An Issues and Options Workpaper," a report to the Joint Interim Subcommittee on School Funding, Andrea Merrill, Montana Legislative Council, March 1992.
"Capital Outlay Equalization," Taryn Purdy, Office of the Legislative Fiscal Analyst, September 1990 and November 9, 1990.
"State funding for School Facilities and Debt Service," a report to the Joint Interim Subcommittee on School Funding, Andrea Merrill, Montana Legislative Council, December 1991.

10. "State Cost if GTB Were Applied to Fiscal 1992 Debt Service Mills," Madalyn Quinlan, Office of Public Instruction, May 1992.

11. Helena Elementary School District No. 1 v. State.

12. "Public School Funding Recommendations," a report to Montanans by the Governor's Public School Finance Advisory Council, Helena, Montana, November 16, 1989. House Bill No. 575 of the 1989 Regular Session recommended that transportation be funded in the district general fund, with equalized state aid granted on a population density factor. House Bill No. 28 of the 1989 Special Session, as introduced, would have provided for 100% state funding of the transportation schedules.

13. "How Other States Fund School Transportation," Andrea Merrill, Montana Legislative Council, May 1990.
"Montana Public School Transportation Status Report for School Year 1988-89," Jan Thompson, Montana Office of Public Instruction, May 1990.
"Montana Public School Transportation Funding Proposals," Jan Thompson, Montana Office of Public Instruction, November 1990.

14. Chapter 711, Laws of 1991.

15. Chapter 767, Laws of 1991.

16. "Montana's School Transportation Policies and Funding," a report to the Joint Interim Subcommittee on School Funding, Andrea Merrill, Montana Legislative Council, August 1992.

17. Chapter 9, Special Laws of July 1992.

18. "School Superintendent Salaries at Top of Class," Great Falls Tribune, January 12, 1992; "Academic Overhead," Missoulian, February 5, 1992.

19. "School District Expenditures by Function for the 1990-1991 School Year," memo to the Joint Interim Subcommittee on School Funding, Madalyn Quinlan, Office of Public Instruction, April 26, 1992.

20. "School Administration Under Attack: What are the Facts?," Glen Robinson, Concerns in Education a publication of the Educational Research Service, 1992.

21. House Bill No. 828 was tabled in the House Education and Cultural Resources Committee.

22. "Legislative Authority Regarding School Administrative Salaries," legal memorandum by Gregory J. Petesch, Montana Legislative Council, May 1992.

23. "Extending the Required Public School Year in Montana: Is It Desirable or Feasible?," a report to the Joint Interim Subcommittee on School Funding, Andrea Merrill, Montana Legislative Council, September 1992.

24. The State of Mathematics Achievement: NAEP's 1990 Assessment of the Nation and the Trial Assessment of the States, Educational Testing Service, June 1991.

25. A state-by-state comparison of the results of the Armed Forces Qualification Test taken by new recruits in 1989, State Policy Reports, Vol. 7, Issue No. 15, August 1989, p. 22.

26. Chapter 199, Laws of 1949.

27. Section 27, Chapter 11, Special Laws of 1989.

28. Correspondence from the Maryland Department of Education, Superintendent's Office, February 7, 1991.

29. "The Montana School Foundation Program and State Equalization Aid: A Legislative and Financial History, 1949--1991," a report to the Joint Interim Subcommittee on School Funding, Andrea Merrill, Montana Legislative Council, April 1992.

30. See endnotes 3 and 4.

31. See endnote 4.

32. "Cashflow in the General Fund, School Equalization, and Highway Accounts, FY 92 and FY 93," a report to the Legislative Finance Committee, Terry Olcott Cohea and Terry W. Johnson, November 15, 1991.

33. Chapter 6, Special Laws of July 1992.

34. Montana Gap Analysis, David W. Hornbeck, Gary Payne, and Ronn Robinson, a report prepared under the auspices of The Business Roundtable, April 16, 1992.

APPENDIX A

LC0036

**** Bill No. ***

Introduced By **********

By Request of the Joint Interim Subcommittee on School Funding

A Bill for an Act entitled: "An Act equalizing funding for school district facility needs by providing guaranteed tax base aid for the debt service fund of a school district if the district mill value per ANB is less than the corresponding statewide mill value per ANB; allowing a district that qualifies for guaranteed tax base aid to incur indebtedness up to 45 percent of the statewide taxable value per pupil multiplied by the district's ANB; amending sections 20-9-344, 20-9-366, 20-9-367, 20-9-368, 20-9-406, and 20-9-439, MCA; and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 20-9-344, MCA, is amended to read:

"**20-9-344. Purpose of state equalization aid and duties of board of public education for distribution.** (1) The money available for state equalization aid must be distributed and apportioned to provide:

(a) an annual minimum operating revenue for the elementary and high schools in each county, exclusive of revenues required for debt service, except as provided in 20-9-367, and for the payment of any costs and expense incurred in connection with any

adult education program, recreation program, school food services program, new buildings and grounds, and transportation; and

(b) the Montana educational telecommunications network as provided in 20-32-101.

(2) The board of public education shall administer and distribute the state equalization aid and state advances for county equalization in the manner and with the powers and duties provided by law. To this end, the board of public education shall:

(a) adopt policies for regulating the distribution of state equalization aid and state advances for county equalization in accordance with the provisions of law;

(b) have the power to require reports from the county superintendents, budget boards, county treasurers, and trustees as it considers necessary; and

(c) order the superintendent of public instruction to distribute the state equalization aid on the basis of each district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the distribution of state equalization aid, the board of public education may not increase or decrease the state equalization aid distribution to any district on account of any difference that may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

(3) The board of public education may order the superintendent of public instruction to withhold distribution of state equalization aid or order the county superintendent of

schools to withhold county equalization money from a district when the district fails to:

(a) submit reports or budgets as required by law or rules adopted by the board of public education; or

(b) maintain accredited status.

(4) Prior to any proposed order by the board of public education to withhold distribution of state equalization aid or county equalization money, the district is entitled to a contested case hearing before the board of public education, as provided under the Montana Administrative Procedure Act.

(5) If a district or county receives more state equalization aid than it is entitled to, the county treasurer shall return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the superintendent of public instruction.

(6) Except as provided in 20-9-347(3), the foundation program payment and guaranteed tax base aid payment must be distributed according to the following schedule:

(a) from August to May of the school fiscal year, 8% of the foundation program payment to each district;

(b) in November of the school fiscal year, one-half of the guaranteed tax base aid payment to each district or county;

(c) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment to each district or county; and

(d) in June of:

(i) the 1993 school fiscal year, one-half of the remaining foundation program payment of each district and on July 15, 1993,

the remaining school fiscal year 1993 foundation program payment of each district; and

(ii) the school fiscal year, the remaining foundation program payment to each district.

(7) The distribution of foundation program payments and guaranteed tax base aid provided for in subsection (6) must occur by the last working day of each month.

Section 2. Section 20-9-366, MCA, is amended to read:

"20-9-366. Definitions. As used in 20-9-366 through 20-9-369, the following definitions apply:

(1) "County retirement mill value per elementary ANB" or "county retirement mill value per high school ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts.

(2) "District mill value per ANB" means the taxable valuation in the previous year of all property in the district divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district's current year foundation program amount.

(3) "Permissive amount" means that portion of a district's general fund budget in excess of the foundation program amount for the district, as provided in 20-9-316 through 20-9-321, but not exceeding 35% of the district's foundation program amount,

and which excess is authorized under the provisions of 20-9-145 and 20-9-353.

(4) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for permissive, debt service, and retirement guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 121% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB amount used to calculate the elementary school districts' and high school districts' current year foundation program amounts."

{Internal References to 20-9-366:
20-3-106 (2) 20-5-305 20-5-312 20-6-702
20-9-351 20-9-366 20-9-369}

Section 3. Section 20-9-367, MCA, is amended to read:

"20-9-367. Eligibility to receive guaranteed tax base aid. (1) If the district mill value per ANB of any elementary or high school district is less than the corresponding statewide district mill value per elementary ANB or high school ANB, the district may receive guaranteed tax base aid based on the number of mills levied in the district in support of its permissive amount of the general fund budget and its debt service fund.

(2) If the county retirement mill value per elementary ANB or county retirement mill value per high school ANB is less than the corresponding statewide county mill value per elementary ANB or high school ANB, the county may receive guaranteed tax base aid based on the number of mills levied in the county in support

of the retirement fund budgets of the respective elementary or high school districts in the county."

{Internal References to 20-9-367:
**20-3-106 (2) *20-9-351 *20-9-366 *20-9-369}*

Section 4. Section 20-9-368, MCA, is amended to read:

"20-9-368. Amount of guaranteed tax base aid -- reversion. (1) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the elementary school districts in the county is the difference between the county mill value per elementary ANB and the statewide ~~county~~ mill value per elementary ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the elementary districts in the county.

(2) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the high school districts in the county is the difference between the county mill value per high school ANB and the statewide ~~county~~ mill value per high school ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the high school districts in the county.

(3) The amount of guaranteed tax base aid per ANB that a district may receive in support of its permissive amount of the general fund budget is the difference between the district mill value per ANB and the corresponding statewide district mill value per ANB, multiplied by the number of mills levied in support of the district's permissive amount of the general fund budget.

(4) The amount of guaranteed tax base aid per ANB that a district may receive in support of its debt service fund budget is the difference between the district mill value per ANB and the corresponding statewide mill value per ANB, multiplied by the number of mills levied in support of the district's debt service fund budget.

(5) Guaranteed tax base aid provided to any county or district under this section is earmarked to finance the fund or portion of the fund for which it is provided. If the actual expenditures from the fund or portion of the fund for which guaranteed tax base aid is earmarked are less than the amount budgeted, the guaranteed tax base aid reverts in proportion to the amount budgeted but not expended. If a county or district receives more guaranteed tax base aid than it is entitled to, the excess must be returned to the state as required by 20-9-344."

{Internal References to 20-9-368:
**20-3-106 (2) *20-9-351 *20-9-366 *20-9-369}*

Section 5. Section 20-9-406, MCA, is amended to read:

"20-9-406. Limitations on amount of bond issue. (1) (a) ~~The~~ Except as provided in subsection (1)(c), the maximum amount for which an elementary district or a high school district may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is 45% of the taxable value of the property subject to taxation as ascertained by the last completed assessment for state, county, and school taxes previous to the incurring of the indebtedness~~, including:~~

~~(i) the taxable value of coal gross proceeds as determined for county bonding purposes in 15-23-703(2);~~

~~(ii) the taxable value of oil and gas net proceeds as determined for county bonding purposes in 15-23-607(3); and~~

~~(iii) the amount of the value of any other oil and gas production occurring after December 31, 1988, multiplied by 60%~~.

(b) ~~The~~ Except as provided in subsection (1) (c), the maximum amount for which a K-12 school district, as formed pursuant to 20-6-701, may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is up to 90% of the taxable value of the property subject to taxation as ascertained by the last-completed assessment for state, county, and school taxes previous to the incurring of the indebtedness. The total indebtedness of the high school district with an attached elementary district ~~as represented by the issuance of bonds~~ must be limited to the sum of 45% of the taxable value of the property for elementary school program purposes and 45% of the taxable value of the property for high school program purposes.

(c) The maximum amount for which an elementary district or a high school district that qualifies for guaranteed tax base aid under the provisions of 20-9-367 may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is 45% of the corresponding statewide mill value per ANB times 1000 times the ANB of the district. For a K-12 district, the maximum

amount for which the district may become indebted is 45% of the sum of the statewide mill value per elementary ANB times 1000 times the elementary ANB of the district and the statewide mill value per high school ANB times 1000 times the high school ANB of the district.

(2) The maximum amounts determined in subsection (1), however, may not pertain to indebtedness imposed by special improvement district obligations or assessments against the school district or to bonds issued for the repayment of tax protests lost by the district. All bonds issued in excess of the amount are void, except as provided in this section.

(3) When the total indebtedness of a school district has reached the limitations prescribed in this section, the school district may pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of this chapter.

(4) Whenever bonds are issued for the purpose of refunding bonds, any money to the credit of the debt service fund for the payment of the bonds to be refunded is applied toward the payment of the bonds and the refunding bond issue is decreased accordingly."

{Internal References to 20-9-406:
20-9-407 (2) 20-9-412 20-9-471 20-9-502
**20-15-404 90-6-310}*

Section 6. Section 20-9-439, MCA, is amended to read:

"20-9-439. Computation of net levy requirement -- procedure when levy inadequate. (1) The county superintendent shall compute

the levy requirement for each school district's debt service fund on the basis of the following procedure:

(a) ~~determine~~ Determine the total money available in the debt service fund for the reduction of the property tax on the district by totaling:

(i) the end-of-the-year fund balance in the debt service fund, less any limited operating reserve as provided in 20-9-438;

(ii) anticipated interest to be earned by the investment of debt service cash in accordance with the provisions of 20-9-213(4) or by the investment of bond proceeds under the provisions of 20-9-435; and

(iii) any other money, including money from federal sources, anticipated by the trustees to be available in the debt service fund during the ensuing school fiscal year from such sources as legally authorized money transfers into the debt service fund or from rental income, excluding any guaranteed tax base aid.~~;~~

(b) ~~the~~ Subtract the total amount available to reduce the property tax, determined in subsection (1)(a), ~~must be subtracted~~ from the final budget ~~expenditure amount~~ for the debt service fund as established in 20-9-438~~;~~ .

(c) Determine the number of mills to be levied on the taxable property in the district to finance the net debt service levy requirement by dividing the remainder determined in subsection (1)(b) by the sum of:

(i) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified by the superintendent of public instruction; and

(ii) the taxable valuation of the district divided by 1,000.

(2) ~~the~~ The net debt service fund levy requirement determined in subsection ~~(1)(b)~~ (1)(c) must be reported to the county commissioners on the second Monday of August by the county superintendent as the net debt service fund levy requirement for the district, and a levy must be made by the county commissioners in accordance with 20-9-142.

~~(2)~~ (3) If the board of county commissioners fails in any school fiscal year to make a levy for any issue or series of bonds of a school district sufficient to raise the money necessary for payment of interest and principal becoming due during the next ensuing school fiscal year, in any amounts established under the provisions of this section, the holder of any bond of the issue or series or any taxpayer of the district may apply to the district court of the county in which the school district is located for a writ of mandate to compel the board of county commissioners of the county to make a sufficient levy for such purposes. If, upon the hearing of the application, it appears to the satisfaction of the court that the board of county commissioners of the county has failed to make a levy or has made a levy that is insufficient to raise the amount required to be raised as established in the manner provided in this section, the court shall determine the amount of the deficiency and shall issue a writ of mandate directed to and requiring the board of county commissioners, at the next meeting for the purpose of fixing tax levies for county purposes, to fix and make a levy against all taxable property in the school district that is

sufficient to raise the amount of the deficiency. The levy is in addition to any levy required to be made at that time for the ensuing school fiscal year. Any costs that may be allowed or awarded the petitioner in the proceeding must be paid by the members of the board of county commissioners and may not be a charge against the school district or the county."

NEW SECTION. **Section 7. {standard} Effective date.** [This act] is effective July 1, 1993.

-END-

{Andrea Merrill
Eddye McClure
Montana Legislative Council
444-3064}

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE ON SCHOOL FUNDING

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING REIMBURSEMENT RATES IN SCHOOL DISTRICT TRANSPORTATION LAWS; ELIMINATING A REFERENCE TO THE COUNTY TRANSPORTATION FUND OPERATING RESERVE; AMENDING SECTIONS 20-10-142 AND 20-10-146, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-10-142, MCA, is amended to read:

"**20-10-142. Schedule of maximum reimbursement for individual transportation.** The following rates for individual transportation constitute the maximum reimbursement to districts for individual transportation from state and county sources of transportation revenue under the provisions of 20-10-145 and 20-10-146. These rates ~~also shall~~ constitute the limitation of the budgeted amounts for individual transportation for the ensuing school fiscal year. The schedules provided in this section ~~shall~~ may not be altered by any authority other than the legislature of the state of Montana. When the trustees contract with the parent or guardian of any eligible transportee to provide

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individual transportation for each day of school attendance, they shall reimburse the parent or guardian on the basis of the following schedule:

(1) When a parent or guardian transports an eligible transportee or transportees from the residence of the parent or guardian to a school or to schools located within 3 miles of one another, the total reimbursement per day of attendance ~~shall be~~ is determined by multiplying the distance in miles between the residence and the school, or the most distant school if more than one, by 2, subtracting 6 miles from the product ~~so obtained~~, and multiplying the difference by 21.25 cents, provided that:

(a) if two or more eligible transportees are transported by a parent or guardian to two or more schools located within 3 miles of one another and if ~~such~~ the schools are operated by different school districts, the total amount of the reimbursement ~~shall~~ must be divided equally between the districts;

(b) if two or more eligible transportees are transported by a parent or guardian to two or more schools located more than 3 miles from one another, the parent or guardian ~~shall~~ must be separately reimbursed for transporting the eligible transportee or transportees to each school;

(c) if a parent transports two or more eligible

transportees to a school and a bus stop ~~which-school-and-bus stop~~ that are located within 3 miles of one another, the total reimbursement ~~shall~~ must be determined under the provisions of this subsection and ~~shall~~ must be divided equally between the district operating the school and the district operating the bus;

(d) if a parent transporting two or more eligible transportees to a school or bus stop must, because of varying arrival and departure times, make more than one round-trip journey to the bus stop or school, the total reimbursement allowed by this section ~~shall be~~ is limited to one round trip per day for each scheduled arrival or departure time;

(e) notwithstanding subsection (1)(a), (1)(b), (1)(c), or (1)(d), ~~no~~ a reimbursement may not be less than 25 cents a day.

(2) When the parent or guardian transports an eligible transportee or transportees from the residence to a bus stop of a bus route approved by the trustees for the transportation of the transportee or transportees, the total reimbursement per day of attendance ~~shall be~~ is determined by multiplying the distance in miles between the residence and the bus stop by 2, subtracting 3 miles from the product ~~so-obtained~~, and multiplying the difference by ~~22.5~~ 21.25 cents, provided that:

(a) if the eligible transportees ~~transported~~ attend schools in different districts but ride on one bus, the districts shall divide the total reimbursement equally; and

(b) if the parent or guardian is required to transport the eligible transportees to more than one bus, the parent or guardian ~~shall~~ must be separately reimbursed for transportation to each bus.

(3) ~~Where~~ When, due to excessive distances, impassable roads, or other special circumstances of isolation the rates prescribed in subsection (1) or (2) would be an inadequate reimbursement for the transportation costs or would result in a physical hardship for the eligible transportee, ~~his~~ a parent or guardian may request an increase in the reimbursement rate. ~~Such a~~ A request for increased rates due to isolation ~~shall~~ must be made by the parent or guardian on the contract for individual transportation for the ensuing school fiscal year by indicating the special facts and circumstances ~~which~~ that exist to justify the increase. Before ~~any~~ an increased rate due to isolation ~~can~~ may be paid to the requesting parent or guardian, ~~such~~ the rate must be approved by the county transportation committee and the superintendent of public instruction after the trustees have indicated their approval or disapproval. Regardless of the action of the trustees and when approval is given by the county transportation committee and the superintendent of

public instruction, the trustees shall pay ~~such~~ the increased rate due to isolation. The increased rate ~~shall be~~ is 1 1/2 times the rate prescribed in subsection (1) ~~above~~.

(4) When the isolated conditions of the household where an eligible transportee resides require ~~such~~ an eligible transportee to live away from the household in order to attend school, ~~he--shall--be~~ the eligible transportee is eligible for the room and board reimbursement. Approval to receive the room and board reimbursement ~~shall~~ must be obtained in the same manner prescribed in subsection (3) ~~above~~. The per diem rate for room and board ~~shall be~~ is $5.31 for one eligible transportee and $3.19 for each additional eligible transportee of the same household.

(5) When the individual transportation provision is to be satisfied by supervised home study or supervised correspondence study, the reimbursement rate ~~shall be~~ is the cost of ~~such~~ the study, provided that the course of instruction is approved by the trustees and supervised by the district."

Section 2. Section 20-10-146, MCA, is amended to read:

"**20-10-146. County transportation reimbursement.** (1) The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation that is actually rendered by a district in accordance with this title, board of public

education transportation policy, and the transportation rules of the superintendent of public instruction must be the same as the state transportation reimbursement payment except that:

(a) if any cash was used to reduce the budgeted county transportation reimbursement under the provisions of 20-10-144(2)(b), the annual apportionment is limited to the budget amount; and

(b) when the county transportation reimbursement for a school bus has been prorated between two or more counties because the school bus is conveying pupils of more than one district located in the counties, the apportionment of the county transportation reimbursement must be adjusted to pay the amount computed under the proration.

(2) The county transportation net levy requirement for the financing of the county transportation fund reimbursements to districts is computed by:

(a) totaling the net requirement for all districts of the county, including reimbursements to a special education cooperative or prorated reimbursements to joint districts;

(b) determining the sum of the money available to reduce the county transportation net levy requirement by adding:

(i) anticipated money that may be realized in the county transportation fund during the ensuing school fiscal

year, including anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

(ii) net proceeds taxes and local government severance taxes on other oil and gas production occurring after December 31, 1988;

(iii) coal gross proceeds taxes under 15-23-703;

(iv) any fund balance available for reappropriation from the end-of-the-year fund balance in the county transportation fund~~.~~; ~~The county transportation fund operating reserve may not be more than 35% of the final county transportation fund budget for the ensuing school fiscal year and must be used for the purpose of paying transportation fund warrants under the county transportation fund budget.~~

(v) federal forest reserve funds allocated under the provisions of 17-3-213; and

(vi) other revenue anticipated that may be realized in the county transportation fund during the ensuing school fiscal year; and

(c) notwithstanding the provisions of subsection (3), subtracting the money available, as determined in subsection (2)(b), to reduce the levy requirement from the county transportation net levy requirement.

(3) The net levy requirement determined in subsection

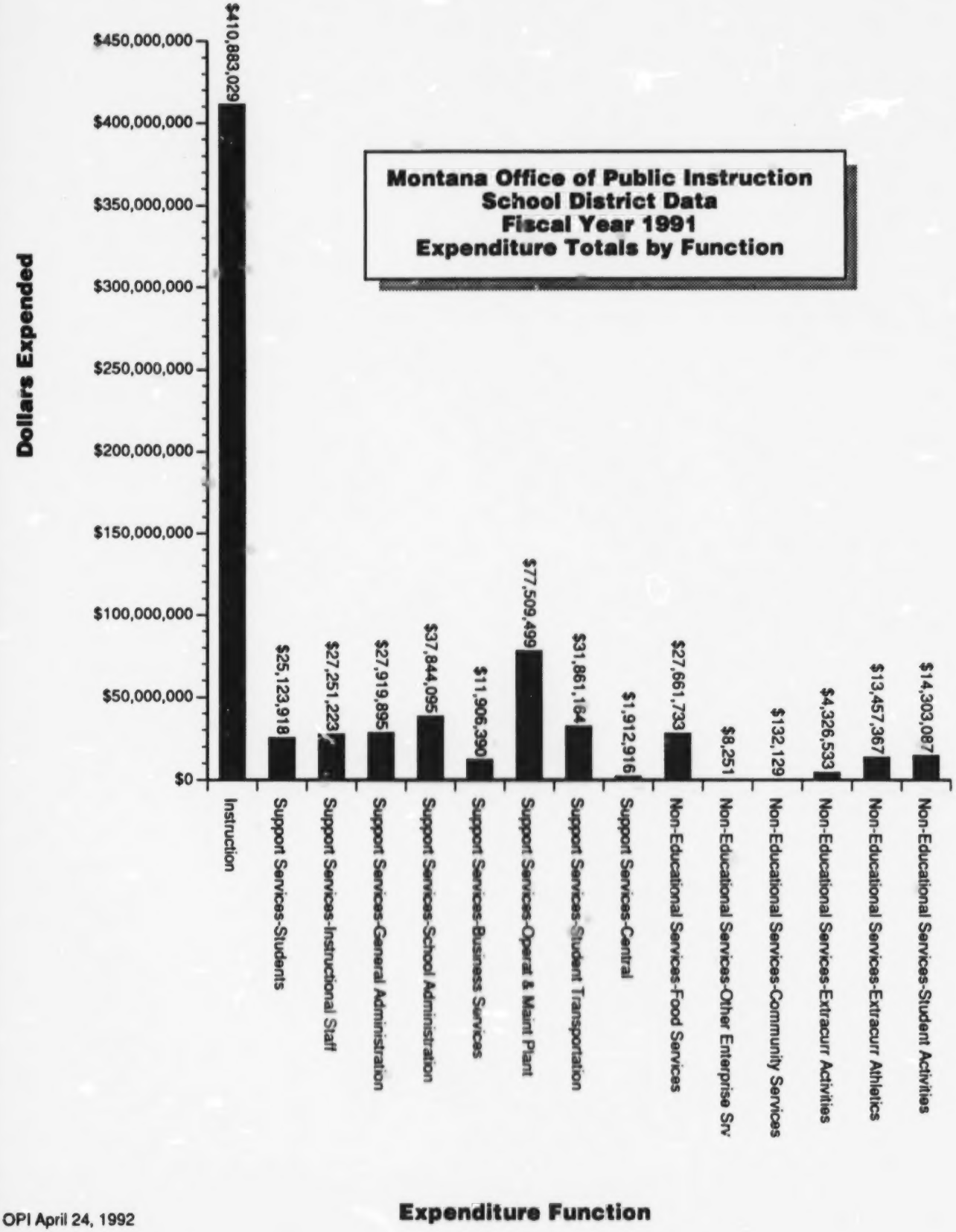
(2)(c) must be reported to the county commissioners on the second Monday of August by the county superintendent, and a levy must be set by the county commissioners in accordance with 20-9-142.

(4) The county superintendent shall apportion the county transportation reimbursement from the proceeds of the county transportation fund. The county superintendent shall order the county treasurer to make the apportionments in accordance with 20-9-212(2) and after the receipt of the semiannual state transportation reimbursement payments."

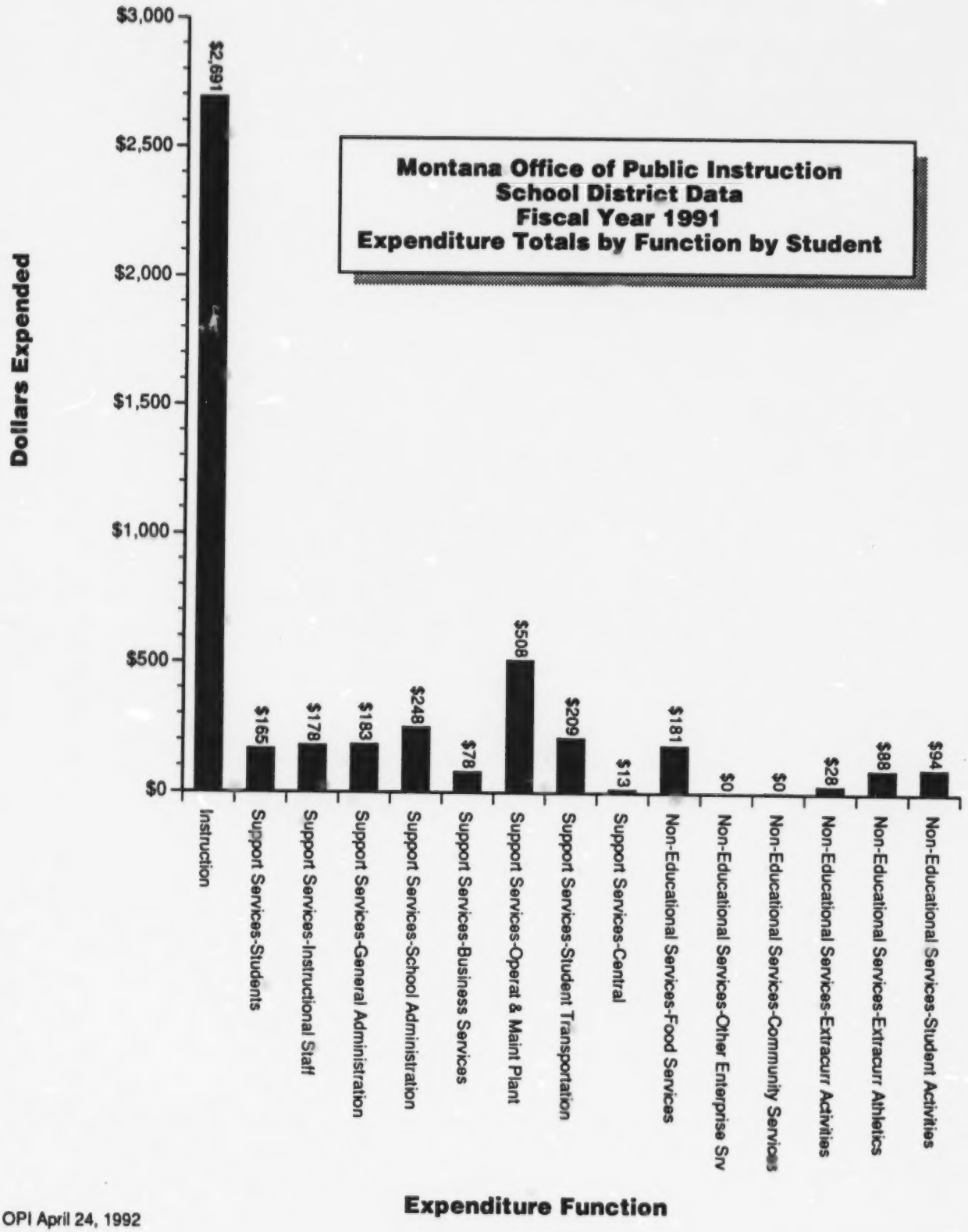
NEW SECTION. **Section 3.** Effective date. [This act] is effective July 1, 1993.

-End-

APPENDIX B



OPI April 24, 1992



OPI April 24, 1992

APPENDIX C

APPENDIX C

LEGISLATIVE INCREASES IN FOUNDATION PROGRAM SCHEDULES

SCHOOL FISCAL YEARS 1951 -- 1991

Legislative Session and Funding Biennium	Foundation Program Schedule Increases Over Previous Biennium	
	Elementary Schools	High Schools
1951 Legislature FY 52 & 53	No increase for biennium	No increase for biennium
1953 Legislature FY 54 & 55	9.9%, average increase[1] Amounts varied for size	10.4%, average increase Amounts varied for size
1955 Legislature FY 56 & 57	4.7%, average increase	15.3%, average increase
1957 Legislature FY 58 & 59	11.1%, average increase	9.8%, average increase
1959 Legislature FY 60 & 61	4%, average increase	4.7%, average increase
1961 Legislature FY 62 & 63	3% 3%	3% 3%
1963 Legislature FY 64 & 65	4.5%, average increase[2] (10.5%, ANB of 301 +)	19.6%, average increase (29.4%, ANB of 601 +)
1965 Legislature FY 66 & 67	6% 6%	6% 6%
1967 Legislature FY 68 & 69	15% 15%	15% 15%
1969 Legislature FY 70 & 71	12% 12%	14% 14%
1971 Legislature FY 72 & 73	4.10%[3] 4.04%	4.10% 4.17%
1974 Legislature[4] FY 74 & 75	5% 7.40%	5% 6.8%
1975 Legislature FY 76 & 77	15.9% average increase[5] 12.7%	12.5% 12.7%
1977 Legislature FY 78 & 79	7% 7%	7% 7%
1979 Legislature FY 80 & 81	8% 10%	8% 10%

Legislative Session and Funding Biennium	Foundation Program Schedule Increases Over Previous Biennium	
	Elementary Schools	High Schools
1981 Legislature FY 82 & 83	18% 15%	18% 15%
1983 Legislature FY 84 & 85	4% 3%	4% 3%
1985 Legislature FY 86 & 87	4% 1% [6]	4% 1%
1987 Legislature FY 88 & 89	No increase for biennium	No increase for biennium
1989 Legislature FY 90 & 91	3% 13.9% (24.4%, ANB of 300+)[7]	3% 21.5%
1991 Legislature FY 92 & 93	No increase for biennium[8]	No increase for biennium

NOTES FOR APPENDIX C

1. For FY 54 through FY 61, the percent of increase in the foundation program schedule amount varied according to the district ANB size. The average percentage increases have been computed on a weighted basis for consistency of comparison.

2. The 1963 Legislature enacted the recommendations of the School Foundation Program Study Committee of the 1961-62 interim, which created new schedules based on a study of the median costs in the districts' FY 1962 general fund budgets. The percentage increase varied according to the new district size categories, with the largest districts receiving the greatest increases, as shown. The new schedules were termed the "maximum-general-fund-budget-without-a-voted-levy" amount, which was divided into a minimum foundation program guarantee of 75% and a 25% permissive amount that could be triggered by district trustee action.

3. For FY 72 through FY 75, increases were based on the following dollar amounts per ANB: $14 per elementary ANB and $20.50 per high school ANB in FY 72; $16 per elementary ANB and $21.60 per high school ANB in FY 73; $19.60 per elementary ANB and $27 for high school ANB in FY 74; and $30.40 per elementary ANB and $38.40 per high school ANB in FY 75.

4. The 1973 Legislature did not act on foundation program schedule increases but did revamp the funding structure.

5. The 1975 Legislature enacted the Office of Public Instruction's recommendation to adjust the schedules based on a study of actual general fund expenditures in FY 74 for districts in the various size categories within the schedules. The changes varied from 6% for the smallest categories to 20% for elementary and high schools with 101 to 300 ANB (Chapter 518, Laws of 1975).

6. The 1985 Legislature enacted 4% increases for both years of the biennium; however, the increase for FY 87 was reduced in the June 1986 Special Session in order to reduce a projected state deficit.

7. House Bill No. 28, the school funding reform package of the June 1989 Special Session, increased the schedules significantly to coincide with legislative intent to disperse through the schedules an amount equal to at least 80% of the general fund and comprehensive insurance fund expenditures of all the districts in the state in FY 88. House Bill No. 6 of the June 1989 Special Session had boosted the FY 90 schedules by 3%.

During the special session, a comparison of FY 88 schedule funding to actual FY 1988 district expenditures for schools with more than 300 ANB indicated greater reliance by that size category on nonequalized funding than by other size categories. The data was used to back the argument that the schedules should be increased by an additional 8.7% for this size of elementary school or district. This adjustment was directed toward 60% of the state ANB count in 73 of the state's largest elementary districts.

8. House Bill No. 982 of the 1991 Regular Session would have increased the schedules by 2%; however, the bill's linkage to House Bill No. 1007, containing an income tax surcharge as a funding mechanism, resulted in nullification of the schedule increases upon the Legislature's failure to override the Governor's veto of that bill.

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